

THE

Area Plan Commission

of TIPPECANOE COUNTY

20 NORTH 3RD STREET
LAFAYETTE, INDIANA 47901-1209

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DAVID HITTLE
EXECUTIVE DIRECTOR

May 20, 2021
Ref. No.: 2021-111

Tippecanoe County Commissioners
20 North Third Street
Lafayette, Indiana 47901

CERTIFICATION

RE: **Z-2829 FAITH LEGACY PROPERTIES, INC. (A to I1):**
Petitioner is requesting rezoning of 10.77 acres located on the south side of CR 800 N, just west of Kipp Farm Road, in Washington 14 (NE) 24-3. With Commitment.

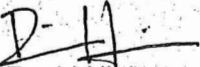
Dear County Commissioners:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on May 19, 2021 the Area Plan Commission of Tippecanoe County voted 14 yes - 0 no to accept the proposed commitment and 13 yes - 1 no on the motion to rezone the subject real estate from the A zone to the I1 zone. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Tippecanoe County Board of Commissioners that the proposed rezoning ordinance be APPROVED for the property described in the attachment.

Public Notice has been given that this petition will be heard before the Tippecanoe County Board of Commissioners at its June 7, 2021 regular meeting. Petitioners or their representatives must appear to present their case.

If the County Commissioners approve the rezoning with commitment, APC staff will ensure that the approved commitment is recorded and an original recorded commitment sent to Tippecanoe County.

Sincerely,



David Hittle
Executive Director

DH/ksl

Enclosures: Staff Report & Ordinances

cc: Tyler Ochs, Ball Eggleston, PC
Mike Wolf, County Building Commissioner

Z- 2829

ORDINANCE NO. 2021-12-00
AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF TIPPECANOE
COUNTY, INDIANA, TO REZONE CERTAIN REAL ESTATE
FROM A TO I1

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF TIPPECANOE COUNTY, INDIANA:

Section 1: The Unified Zoning Ordinance of Tippecanoe County, Indiana, being a separate ordinance and not part of a unified county code is hereby amended to rezone the following described real estate situated in Washington Township, Tippecanoe County, Indiana

See Exhibit A attached.

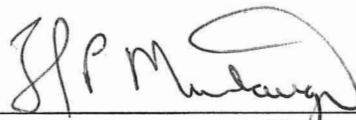
Section 2: The above-described real estate should be and the same is hereby rezoned from A to I1.

Section 3: This ordinance shall be in full force and effect from and after its adoption.

(Adopted And Passed) (Denied) by the Board Of Commissioners of Tippecanoe County, Indiana, this 7th day of June, 2021.

VOTE:

Yes



Thomas Murtaugh, President

Yes



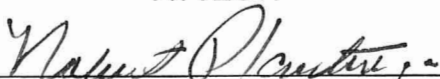
David Byers, Vice President

Yes



Tracy Brown, Member

ATTEST:



Robert Plantenga, Auditor

EXHIBIT "A"

LEGAL DESCRIPTION

A part of the Northeast Quarter of Section Fourteen (14), Township Twenty-four (24) North, Range Three (3) West, Washington Township, Tippecanoe County, Indiana, being depicted on a Vester and Associates, Inc. Survey Job E-00027 and being more completely described as follows, to-wit:

Beginning at the northwest corner of the Northeast Quarter of Section 14-24-3, said point being marked by a Berntsen Al NB Monument; thence along the north line of said quarter section, South 89 degrees 35 minutes 58 seconds East a distance of 611.02 feet to the northwest corner of Tract 1 of the Robert J. and Gail A. VonHolten property as described in Deed Record 96-05344, recorded on March 27, 1996 in the Office of the Tippecanoe County Recorder, said point being marked by a rebar with an aluminum cap stamped "Vester & Assoc. Inc.", hereinafter referred to as a Vester capped rebar; thence along the west line of said Tract 1, South 01 degrees 00 minutes 09 seconds West a distance of 332.05 feet to a Vester capped rebar at the southwest corner of said Tract 1; thence along the south line of said Tract 1, South 89 degrees 35 minutes 58 seconds East a distance of 214.18 feet to a Vester capped rebar; thence South 00 degrees 24 minutes 02 seconds West a distance of 327.77 feet to a Vester capped rebar; thence North 89 degrees 35 minutes 58 seconds West a distance of 814.16 feet to a point on the west line of said quarter section; thence along the west line of said quarter section, North 00 degrees 15 minutes 20 seconds West a distance of 659.85 feet to the point of beginning, containing 10.77 acres, more or less.

Z-_____

Key Number 79-04-14-200-015.000-027
State Identification Number 138-00800-0515

COMMITMENT

Commitment made on April 19, 2021, by Faith Legacy Properties, Inc.
(the "Petitioner") pursuant to Indiana Code Section 36-7-4-1015.

1. Petitioner makes this commitment as the owner (the "Owner") of certain real estate (the "Real Estate") located in Tippecanoe County, Indiana, commonly known as 79-04-14-200-015.000-027 and more particularly described on Exhibit A which is attached hereto and incorporated by reference herein.

or

1. Petitioner makes this commitment with the knowledge and consent of Faith Legacy Properties, Inc. who is the owner (the "Owner") of certain real estate (the "Real Estate") located in Tippecanoe County, Indiana, commonly known as 79-04-14-200-015.000-027 and more particularly described on Exhibit A which is attached hereto and incorporated by reference herein.

2. Petitioner has filed a request (with the consent of the Owner) with the Area Plan Commission of Tippecanoe County, Indiana (the "APC"), to rezone the Real Estate from A to I1 which request is pending before the APC as case no. _____.

3. Petitioner hereby agrees and makes the following commitment in connection with the rezoning request in case no. _____:

Use of the Real Estate shall be restricted to: SIC 01 (Agricultural production- crops), SIC 824 (Vocational Schools)
SIC 15 (Building construction- general contractor), SIC 25 (furniture and fixtures), SIC 8331 (Sheltered Workshop and Rehab
Centers), SIC 39 (miscellaneous manufacturing industries), SIC 251 (Household furniture), SIC 078 (Landscape and Horticultural)
SIC 521 (lumber and other building materials dealers), SIC 833 Job training and vocational rehabilitation centers),
SIC 24 (Lumber and Wood Products, except furniture), SIC 07 (Agricultural Services), SIC 08 (Forestry) SIC 085 (Forestry Service)

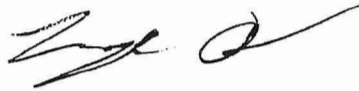
4. Petitioner understands and agrees that this commitment is given to the APC and the Tippecanoe County Commissioners (the "Legislative Body") as an inducement for the recommendation for and approval of the rezoning request in case no. _____. Petitioner further understands and agrees that the approval of the rezoning request in case no. _____ by the Legislative Body constitutes good and valuable consideration for the giving of this commitment.

Z-_____

5. This commitment shall be a covenant running with the Real Estate and binding and enforceable against Petitioner, any subsequent owner, or any other person who acquires any interest in the Real Estate. Any change or modification of this commitment shall only be made with the approval of the APC at a public hearing in accordance with all rules and regulations of the APC.

6. Petitioner agrees that each of the following shall each be a "specially affected person" under Indiana Code Section 36-7-4-1015(d)(3) who shall each independently be entitled to bring an action to enforce the terms and conditions of this commitment in the Circuit or Superior Courts of Tippecanoe County, Indiana:

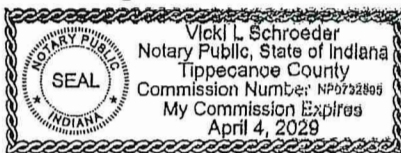
- a. the APC,
- b. the Area Board of Zoning Appeals of Tippecanoe County, Indiana,
- c. the appropriate Administrative Officer designated in the Unified Zoning Ordinance for Tippecanoe County, Indiana,
- d. _____




By: Tyler T. Ochs, Legal Representative for Petitioner

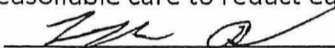
STATE OF INDIANA)
)
COUNTY OF Tippecanoe) SS:

Before me, the undersigned, a notary public, personally appeared Tyler T. Ochs, and acknowledged the execution of the foregoing commitment on April 23, 2021.



My commission expires:
4-4-2029

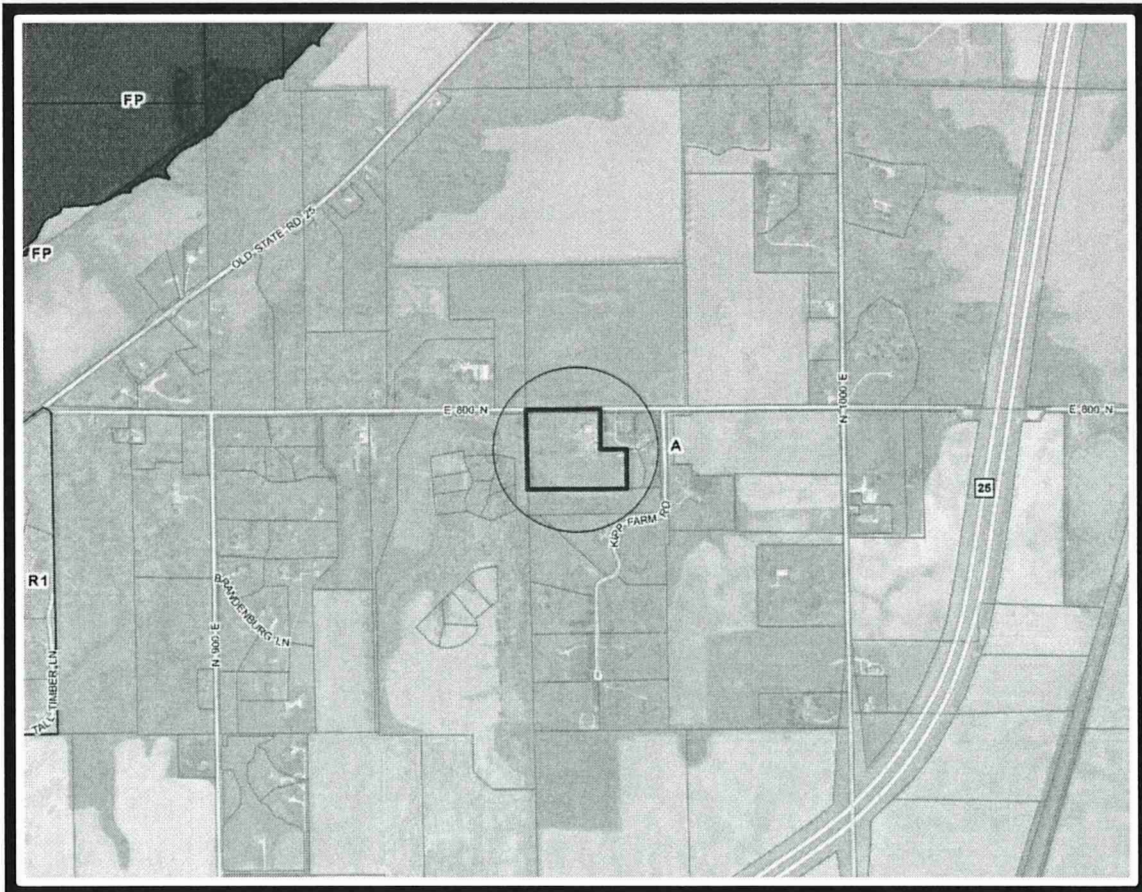

Vicki L. Schroeder, notary public
Resident of Tippecanoe County

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. 

This instrument prepared by: Tyler T. Ochs

Z-2829
FAITH LEGACY PROPERTIES, INC.
(A to I1)

STAFF REPORT
May 13, 2021



Z-2829
FAITH LEGACY PROPERTIES, INC.
A to I1

Staff Report
May 13, 2021

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner/owner, represented by attorney Tyler Ochs, is requesting the rezoning of 10.77 acres with commitment, located on the south side of CR 800 N, just west of Kipp Farm Road, in Washington 14 (NE) 24-3. Petitioner owns 100-acres of land, south of CR 800 N, including the area in the request.

The rezone site currently supports a carpentry shop for men seeking faith-based vocational rehabilitation opportunities. The purpose of this rezoning is to legitimize the existing use and expand the operations. Petitioner plans to construct an approximately 11,000 sq. ft. new structure that would include spaces for a workshop, saw mill, storage, and offices.

ZONING HISTORY AND AREA ZONING PATTERNS:

The land in question and virtually all surrounding property is zoned Agricultural. R1-zoned land exists farther west along Old SR 25. Flood Plain zoning associated with the Wabash River is also found farther north and west of the subject property. There have been no recent rezone activities in the immediate vicinity.

AREA LAND USE PATTERNS:

The site currently has an historic barn, expanded in 2018, and a new pole barn built in the same year. Land in the immediate vicinity (not owned by petitioner) is primarily used agriculturally with a scattering of single-family homes. The land adjacent to the east, with the same ownership, includes one single-family residence (occupied by an elder or a pastor) and two duplexes, used as a halfway home for the rehabilitation program. The area adjoining to the west and north is also owned by petitioner and is used to harvest trees for vocational training.

TRAFFIC AND TRANSPORTATION:

The adopted *Thoroughfare Plan* classifies CR 800 N as a rural local road. The property currently appears to have an informal dirt driveway from CR 800 and another access road from the private driveway serving adjacent residential properties to the east. Any new vehicular access points into the subject property will require a driveway permit approved by the Highway Department.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

The existing barns on site do not have facilities; however well and septic would serve the site since there is no sewer or water nearby. Any installation of a septic system to serve

the carpentry shop and future expansion will require the approval from the County Health Department.

The Administrative Officer (AO) can determine the requirement of a bufferyard along a common property line where the property line serves as the boundary between zones and properties on either side of the line are owned by the same entity. If the AO determines a bufferyard is required, then the type shall also be determined by the Administrative Officer.

COMMITMENT:

Petitioner has submitted a commitment which constrains the use of the site to only the following fourteen Standard Industrial Classifications (SIC) described verbatim from the commitment:

1. SIC 01 (Agricultural Production-Crops)
2. SIC 07 (Agricultural Services)
3. SIC 08 (Forestry)
4. SIC 078 (Landscape and Horticultural)
5. SIC 085 (Forestry Service)
6. SIC 15 (Building Construction- General Contractor)
7. SIC 24 (Lumber and Wood Products, except furniture)
8. SIC 25 (Furniture and Fixtures)
9. SIC 251 (Household Furniture)
10. SIC 39 (Miscellaneous Manufacturing Industries)
11. SIC 521 (Lumber and Other Building Materials Dealers)
12. SIC 824 (Vocational Schools)
13. SIC 833 (Job Training and Vocational Rehabilitation Centers)
14. SIC 8331 (Sheltered Workshop and Rehab Centers)

STAFF COMMENTS:

Petitioner has informed us that the land in question and the surrounding site was gifted to Faith Church 16 years ago to be used for ministry purposes. Since then residences on their properties have been used to house retired missionaries, missionaries on furlough, and seminary students preparing for ministry. In 2016 they began Restoration Men's Ministry to help men struggling with addictions. The petitioner utilized only a small portion of the 100-acre property (divided into multiple tracts) for faith-based residential counseling which includes the rezone area for vocational training. The two duplexes on the adjoining properties house single and married men, aged 18 and over, who desire help from a faith-based ministry. The single-family house is used by a pastor or an elder who oversees the Restoration Men's Ministry operation at the location. As a part of the rehabilitation program, participants are involved in vocational skill-building exercises utilizing the lumber produced on site.

In February, staff received a zoning inquiry describing an interest in constructing a new structure for a saw mill. With a consultation with our attorney, APC Staff sent a response noting that the "saw mill" use was permitted only in industrial zones and instructed the petitioner to pause construction of the structure until resolving the zoning issue.

Consequently, the petitioner filed the rezoning request with the commitment to only permit fourteen uses (associated with agricultural, forestry, furniture building, vocational school and saw mill) on the 10.77-acre site. Out of the fourteen uses listed in the commitment, seven are permitted in A as well as I1 zones either by right or by special exception. The remaining SIC uses, lumber, sheltered workshops, furniture production, miscellaneous manufacturing and rehab centers, are allowed only in industrial zones. If both rezone and commitment are approved, the UZO requires all these activities in an I1 zone to operate entirely indoors and have attached or indoor loading facilities.

The *Comprehensive Plan of Tippecanoe County* identifies this subject area of the county as a "Rural" sector. The petitioner's land is designated for "Agricultural" and "Open Space" uses as per the *current and expected land use* map. The "sector" identification and subsequent land use map was created with the framework that these areas would have fewer developmental pressures. Petitioner's current and future expansion of the site may have some development pressure on the "Rural" sector; however, staff views these improvements as a necessary community service for the public. The prescriptive land uses allowed in the Agricultural zone do not accommodate the array of activities in the current rehabilitation program. Staff believes that the limited uses, a community-centric owner, and the large landholdings provide ample evidence to support the rezoning request that allows the existing use to conform and expand at its current location.

STAFF RECOMMENDATION:

Approval with Commitment